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FEDERAL COMMUNICATIONS COMMISSION
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April 16, 1993

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Federal Communications Commission
CC Docket No. 93-22
RM-7990

Comments to:

Notice of Proposed Rule Making and Notice of Inquiry

In the matter of:

Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act (TDDRA)

Presented to the Federal Communications Commission by:

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INTRODUCTION

The attached documentation addresses the following questions raised by the FCC in its request for comments, concerning:

Pay-Per-Call services offered via collect calls to individual subscribers;

Collect telephone calls that offer access to audiotext services or group discussions (collect audiotext calls);

Prohibition of carrier billing for automated collect pay-per-call services;

Requirements that any services falling within the statutory definition of pay-per-call services be offered only through the use of certain telephone number prefixes and area codes;

Whether additional restrictions on the use of 800 numbers beyond those contained in the TDDRA should be adopted to guard against deceptive practices;

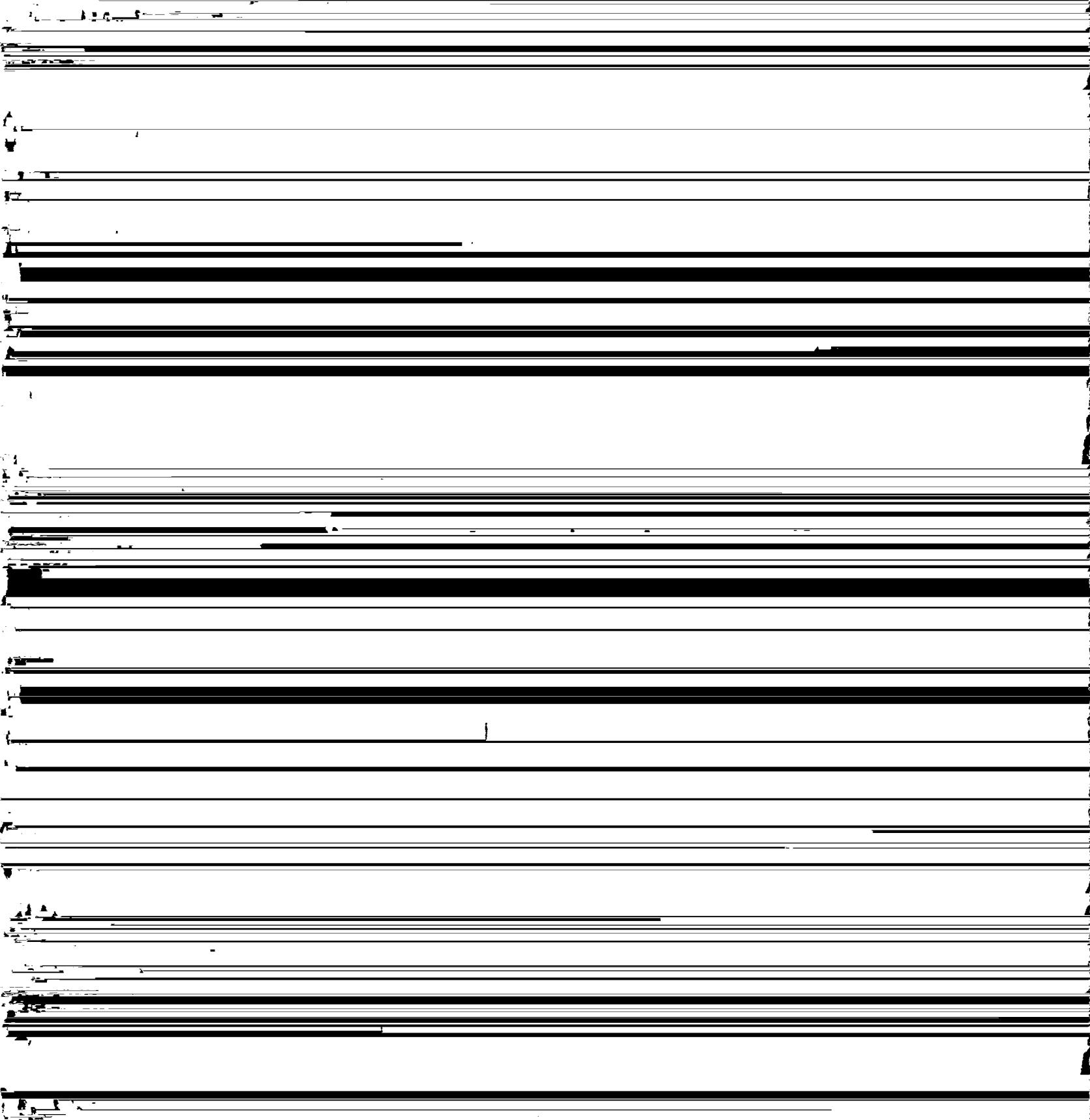
Whether other terms crucial to the applications of the TDDRA's requirements should be defined by rule.

These comments also address a need for the expansion and clarification of the definition of pay-per-call (hereinafter "PPC") services, under section 64.1501 of the proposed rules, which limit the method of provision of PPC services by including the statement, "(a) The term 'pay-per-call services' means any service(3) which is accessed through use of a 900 telephone number."

We will establish that there exists a new method for processing, billing and collecting of PPC services in need of oversight and regulation. This regulation will help to curtail abuse of the method. Circumvention of the spirit of the FCC and FTC rules due to non-regulation can be avoided. While several variations on the method have already been employed by some PPC industry participants, the method is not adequately addressed in the FCC rules. Properly defined and regulated, this method is truly the natural "next-step" and enhancement in the evolution of PPC services.

BACKGROUND

The method inherently addresses and provides for safeguards



SUMMIT TELECOMMUNICATIONS CORPORATION

The principle officers (see officers biographies marked as exhibit "A") of Summit Telecommunications Corporation (hereinafter "STC") collectively have extensive experience and training in the following areas:

- * all aspects of audiotext (interactive phone technology) and pay-per-call services since their inception;
 - * provision of telecommunications transport and billing & collection services;
 - * active involvement in telecommunications regulatory issues related to PPC and other telecommunications disciplines, including several dealings with the FCC and PUC;
 - * computer system creation and design including telecommunication network design, call processing technologies, database management, billing & collection as well as customer service system design for the telecommunications industry.

STC has conducted a small scale test of this new method, providing transport, call processing, billing and collection services (for which charges appeared on Local Exchange Carrier bills through third party agreements), and customer service on behalf of a test client (IP) presently in the business of

COLLECT CALL PAY-PER CALL SERVICES AND 800 NUMBERS

We are in favor of the FCC's consideration to prohibit carriers from billing for collect audiotext calls and agree with your characterization of these services as "non-traditional" (FCC NOTICE, pp.9).

Over the years "collect calls" have been commonly known to be used for a single purpose. They have also been regulated in their pricing structure. The parameters of pricing for collect calls are generally understood by consumers.

The purpose of a "collect call" could be described as, and is widely understood to be, a method by which a called party, through the use of operator services, has the opportunity to accept the charges for a telephone call placed by a calling party, in order for the two to have a conversation.

Collect calls are widely used by family members. Examples include: children calling their parents - possibly from out of state; family members traveling out of town, who use the service from hotels to avoid excessive service charges; or people who do not have a calling card or coin change to use a pay telephone.

It's understandable that collect audiotext calls have generated numerous complaints to the FCC, state commissions and local exchange carriers. Collect calls are commonly known to be used for other than pay-per-call services. Using them to offer Pay-Per-Call information services can be confusing to consumers. It can lead to, as you state, "providers of pay-per-call services....capitalizing on consumer confusion and lack of knowledge" (FCC NOTICE pp. 21).

The original benefits to some unscrupulous IP's providing collect pay-per-call services were:

1. There was little said in FCC rules regarding the provisioning of PPC services charged as a collect call.
2. The charges appeared intermixed with regulated and tariffed services for which there has been no regulation banning subscriber disconnection for non-payment.
3. The charges couldn't be identified by many subscribers or local exchange carrier as a PPC service on the phone bill and were often

4. There were no established screening policies as the services did not fall under the definition of pay-per-call services.
5. There were no requirements for advertising and pre-amble disclosure, and no regulation on billing and collecting.
6. People who were aware that they were receiving a collect call, were not necessarily aware that the services were pay-per-call.

HOW OUR PROPOSED NEW METHOD CAME TO BE

It's truly ironic that the idea for what we believe to be

THE METHOD

Summit has created a first draft of it's marketing materials in anticipation of required regulation. An excerpt of that material is provided below. It is written as a presentation to an Information Provider (IP), yet clearly defines the method and some of its benefits.

Reverse Charge Information Services

The Pay-Per-Call Alternative

SUMMIT TELECOMMUNICATIONS CORPORATION uses the latest in telecommunications and database management technologies to process, bill and collect for pay per call audiotext programming. These technologies eliminate chargebacks before they happen!

SUMMIT's services were created with the best interests of the IP, Service Bureau AND consumer in mind. Summit provides both billing and collection as well as audiotext call processing services to selected larger volume IP's. Summit also works directly with call processing Service Bureau's to provide billing and collection services to their client base.

With **SUMMIT TELECOMMUNICATIONS CORPORATION**, chargebacks are virtually eliminated through: double positive acceptance (customers aren't ever billed unless they've pro-actively requested a Reverse Charge Information Service (RCIS) call and subsequently accepted the charges), on line ANI database checks, real-time Line Information Database checks (shared resource of the LEC's to determine a phone numbers "billability"), Daily-weekly-monthly call limiting, consumer abuse prevention systems, and SUMMIT's courteous and program knowledgeable customer service operators, who customers reach by calling the inquiry phone number printed directly on their phone bill. (With proper billing explanations most customers agree to pay their bills).

HOW IT WORKS ON THE SURFACE:

A consumer calls an 800 number in response to an advertisement for the availability of an audiotext, live information or entertainment service (non-adult oriented), to find out exactly how to receive the service.

During the 800 call, the consumer hears: a description of the service, what it costs per minute, the average call length, the name of the information provider (IP), what city the IP does business in, and that they must be over 18 to use the service. Then the consumer is told that if they would like to use the service and will accept the charges, they can press "1" on their touch tone phone to be called back by the RCIS . If they don't have a touch tone phone they can say "yes".

Within seconds the computer will call the consumer back. Once the consumer answers, he again hears: a description of the service, what it costs per minute, the average call length, the name of the information provider (IP), what city the IP does business in, and that they must be over 18 to use the service. Then the consumer is asked if they would like to accept the charges and receive the service. If the consumer responds by pressing "1" on their phone or by saying "yes" the billing timer will begin and the consumer will then have access to the information or entertainment program.

HOW IT WORKS BEHIND THE SCENES:

When the 800 call comes into the computer, the 800 carrier sends us the phone number of the calling party. Prior to answering the call, the customers phone number is checked against several databases to determine billability. These databases include:

1. How many times has this consumer called: today, this week, and this month?
Excessive calls leading to uncollectible are rejected from the service.
2. Has the consumer refused to pay his SUMMIT or 900 bills in the past?
3. Is the consumer calling from an area that cannot be billed due to non-equal access?
4. Has the consumer called the 800 number before and not asked for a callback?
5. Has the consumer called the 800 number before, asked for a callback and did not accept the charges when called back?

If the answer to any of these database checks is yes, then the consumer will hear a polite message telling them why they'll not be able to access your program. If the answer is no then the consumer will hear the program introduction and be asked if they want to be called back by the Reverse Charge Information Service.

Customers without touch tone phones can say "yes" and our computers will recognize their spoken responses. If the caller does not ask us to call him back, we will post his phone number to a database that keeps track of how many times he's called without asking us to call him back. After a pre-determined number of times he will no longer be allowed access to the 800 number.

If the caller asks us to call him back we will do a remote check to a Line Information Database. This database is a shared resource, used by LEC's, and updated daily with

In most LEC territories, when the consumer calls the customer service phone number printed on his bill, his inquiry will be handled by a SUMMIT customer service operator who has the ability to credit the customers bill if necessary. SUMMIT's operators have immediate access to all IP and service bureau information including a program description and the records that the call was requested and accepted.. SUMMIT's operators will inform the consumer exactly what he is being billed for and in most cases the bill goes uncontested.

1. How to handle pre-amble requirements:

- A. Presently 900 number preambles are fixed in length. Within 18 seconds the PPC service provider must disclose to the customer a long list of items, that are difficult to say in 18 seconds.
- B. Now, the FTC rules are proposing that these preambles give the consumer more disclosure and provide for an additional 5 seconds with which to hang up at no charge after hearing a beep tone indicating that billing will begin (FTC RULES 308.5 (3) & (5)(b)).

This will prompt either the Information providers to try to cramp all the required disclosure within a 13 second period, or that the preamble be extended an additional 5 seconds.

- C. Most of the difficult considerations are due to the fact that the preamble is fixed in length, with too much required information to divulge,
~~length~~

FURTHER DISTINCTIONS NECESSARY TO CREATING OR REVISING THE
PROPOSED FCC RULES

As we stated in our comments to the FTC proposed rules, in order to create or revise rules to address the use of the Reverse Charge Information Services Method, a distinction and definition must be drawn as to the components of the method. More to the point, which part of this method is actually the pay-per-call service?

Upon examination it becomes clear the "call-back" portion of the method IS the pay-per-call service. This is where the customer is called (as a result of requesting the call), hears

Section 308.2(e) defines a Presubscription or Comparable agreement to mean:

"a contractual agreement established prior to the initiation of a pay-per-call service between a provider of pay-per-call services and a consumer. No action taken during the course of a call to a pay-per-call service can be construed as creating such a contractual agreement."

The initial call (which is not the "pay-per-call" call) contains all of the required elements of a legal and binding contract. It contains an offer from the pay-per-call service provider to provide a specific service for a specific price to the consumer, and to call the consumer back, initially at the service providers expense.

It contains acceptance, whereby the consumer has to proactively request the call-back, knowing: there will be a charge, what will be provided, and that he will be called back and asked to accept the disclosed charges for the call.

And it contains consideration, whereby the service provider agrees to place a call at his expense to the consumer in order to

FTC REQUIREMENTS FOR ADVERTISING THE 800 NUMBER OR INITIAL CALL

Although congress directs the FTC in Title II of the TDDRA to create regulations for the advertising standards of pay-per-call programming, we thought it appropriate to describe our suggestions to the FTC regarding the 800 number advertising.

The 800 number initial call is clearly an advertisement for the pay-per-call service. The consumer can access the service by simply calling the 800 number without seeing any other advertisement. FTC advertising and telephone solicitation definitions apply to the 800 number initial call. Therefore the following question must be raised. How do you define the purpose of the advertisement that stimulated the first initial call that the consumer made to the 800 number? What are the disclosure requirements of that advertisement?

It is clearly not a direct advertisement for the pay-per-call service itself. It is an advertisement for how to receive more information about the pay-per-call service and how to acquire the service. Therefore, it should not necessarily be required to have all of the disclosure requirements that 900 number advertisements must have. The 800 number call is truly an extension of this advertisement, much in the same way any other service company use an 800 number to provide more information about their products and how to acquire them.

Yet it would be certainly reasonable to require that this type of advertising doesn't mislead potential customers into believing that use of the service is free. The advertising in this case should be required to clearly disclose that the 800 number is provided to find out more about the service and how to receive it at a cost. Although we may feel that it would be wise for the exact costs to be included in this advertisement, we don't believe it should be required. The customer, if he or she ends up using the service, will hear the proper disclosure twice before being charged (during the 800 number call and at the beginning of the subsequent call-back).

It should be a marketing decision of the IP what disclosure outside of the above suggested requirements he or she wants to make. The Information Provider is the one at risk of generating the marketing costs associated with 800 number calls for which a higher percentage of callers may opt not to request a call-back after hearing the price.

USE OF 800 NUMBERS VS. OTHER NUMBERS FOR THE INITIAL CALL

This method is not dependent on the use of 800 numbers. At present there is one other option. Plain old telephone numbers. There may at some time in the future be another option (e.g. 700 numbers) yet we must deal with what's available today.

We recommend the use of 800 numbers because they offer significant benefits to subscribers and PPC service providers. They also provide technological benefits that help prohibit excessive or habitual usage by subscribers leading to high charges and chargebacks. They allow IP's and service bureaus to avert abusive practices by potentially unscrupulous subscribers invoking protections provided by the TDDRA to avoid paying legitimate charges.

It should be understood that 800 numbers afford the use of the technology called Real-Time ANI (Automatic Number Identification). As the FCC is aware this service provided by Inter-Exchange Carriers is offered with 800 numbers. It's use allows the service bureau receiving and answering calls for PPC service providers, to obtain the callers phone number electronically moments before it receives the 800 number call.

Using ANI, the service bureau through its computers can capture this information instantaneously and know the phone number with which to call the subscriber back should he or she request the call-back. This is much more convenient to the

PROPOSED TECHNOLOGICAL REQUIREMENTS OF RCIS

All of the methods described herein are technical realities, employing existing technologies in regular use by the PPC industry. We know, we've done it. Yet the use of Real-Time ANI described below is by far the most exciting of all the technical capabilities, helping to increase consumer satisfaction as well as solving a number of problems inherent to the 900 number business. Thus we suggest that the methods described below become a requirement of providing Reverse Charge Information Services.

By employing Real-Time ANI in combination with Database management and Voice Response Technology, we can effectively provide the following benefits.

1. On-Line and Real Time "credit" screening.

One problem that leads to excessive complaints from both consumers and PPC service providers is that with 900 numbers you are effectively providing the consumer with an infinite credit limit to incur charges for information services.

By requiring that consumers cannot be disconnected for non-payment of their phone bills you are giving unscrupulous consumers the ability to defraud PPC service providers by simply refusing to pay their bills after the service has been rendered.

A common reason for non-payment of bills is the PPC service providers ~~method of attracting the consumer~~

Additionally, through the Line Information Database (LIDB) an additional "block" can be posted to this database by the LEC's that will allow service bureaus to check if an ANI (or household) has requested to be blocked from all RCIS calls. This is already being done for standard collect calls and could operate exactly the same.

2. Blocking of a particular PPC service on a program by program basis rather than blocking all PPC services from a particular households use.

The FCC has required LEC's to offer blocking of 900 services though due to technical difficulties, it's an "all or nothing" proposition. The FCC is requesting comment on the technical feasibility and costs for the LEC's to provide blocking and/or presubscription to selected services. Yet this is a costly and difficult requirement for the LEC's to manage.

By allowing the service bureaus to originate the billing record and utilize ANI technology blocking can be achieved on a program by program basis. If the billing agent receives a request for blocking or credit from the subscriber for an RCIS call, the billing agent can require the service bureau block that ANI from accessing the same service ever again.

The service bureau can simply block the subscriber from a particular service, by reading the ANI when a call comes into that service and checking it against a database of blocked phone numbers. Per program blocking is much easier achieved on a "micro" level as opposed to a "macro" level.

4. Control on the service providing level of what gets billed and what doesn't.

Presently with 900 service there is no direct connection between the transport and billing agent (the inter-exchange carrier) and the service provider. Once a call goes over the preamble period the consumer is billed. The PPC service provider has no control over the records sent for billing by the inter-exchange carrier.

Creating the billing records on the service bureau level, where the calls actually take place, puts control into the hands of the service bureau or IP to delete records prior to billing in instances of mishandling, technical errors, customer dissatisfaction, or due to the call duration being too short for the customer to have received the full value of the service.

It's in the IP and consumers best interest that these charges aren't billed. The IP avoids the billing costs and complaints and the consumer avoids the hassle of contesting the bill.

THE BILLING ENTITIES ROLL IN REVERSE CHARGE INFORMATION SERVICES

The billing entity should be required to perform and be technically capable of the following, in the provision of Reverse Charge Information Services.

1. Billing

The billing entity should have a direct or indirect relationship with local exchange carriers on a national scale, and the ability to retrieve call detail from service bureaus, manipulate it, manage it and deliver it to local exchange carriers for billing and collection.

Additionally they must be able to track the call records generated by the service bureau through the billing process. They must establish standards and checks & balances to insure that the only records being billed are those for which customers received the intended value.

2. Program Screening

The billing entity must provide the screening of PPC service offerings before they are offered to the general public. It must make a reasonable effort to insure that the PPC service provider is complying with FTC, FCC, and any other regulatory requirements for pay-per-call service.

It must pre-screen the advertising, the messages that callers will hear, the program flow for interactive services, and wherever necessary, require a legal opinion as to the legitimacy of the program.

3. Customer Service

The billing entity must be able to provide customer service for subscribers of PPC services including:

- a. Providing a toll free number for customer inquiries.
- b. Having the call detail data readily available to review the customers billed record and be able to determine which PPC service the customer is being billed for.
- c. Providing a detailed description to customers of the program they were billed for, what was said during the program and the ability to provide information on how to contact the IP.
- d. Process and make credits to customers phone bills whenever necessary.

4. Technical Assistance to Service Bureaus.

The billing entity must insure that the service bureau's comply with all the technical and other requirements for the creation and transmission of valid billing records.

STC'S MARKET TEST RESULTS

Attached you'll find a description and copy of STC's Daily Performance Report including a legend to understand its meaning (marked as exhibit "B"). The report provides data for a single day's worth of calls from a test program we implemented on behalf of an IP. It outlines what happened that day from: the first initial 800 call to subsequently billed pay-per-call services provided. A summary is as follows.

Out of 706 callers to the 800 number, 31 were informed they could not use the service for billing reasons. 430 did not request a call back, and 245 did. Of the 245 requesting a call backs, 7 were rejected by Line Information Database Checks, leaving 238 attempts. 222 call-backs were completed for which 32 did not accept the charges, leaving 190 who accepted the charges.

This means that for this day 27% of the people who called the 800 number ultimately accepted the charges for the call back. Our average ratio was approximately 52%. As you can see customers had ample opportunity not to utilize the service after more than adequate disclosure.

The PPC service provider had the opportunity to refuse service to people who were not likely to pay their bill, reducing uncollectibles and chargebacks. Approximately 97% of the people who accepted the charges this day paid their bills, uncontested. There were limited customer service inquiries. The ones that came in agreed to pay their bills after accurate descriptions of how the charge came to be on their phone bill.

WHO THIS SERVICE BENEFITS AND WHY

1. Customers

- a. Provides adequate disclosure
- b. Requires double pro-active positive acceptance of service.
- c. Creates limits on charges that could be incurred.
- d. Offers opportunity to reject the service after requesting it.
- e. Provides a clear method of getting accurate descriptions of billed calls.
- f. Prevent calls that shouldn't be billed from appearing on bills

2. Pay-Per-Call Service Providers

- a. Reduces chargebacks and uncollectible.
- b. Increases collectibility of paid calls.
- c. Gives more control over what gets billed.
- d. Gives alternative to 900 service and its potentially tarnished reputation.

3. Regulatory Agencies

- a. Increases disclosure to consumers.
- b. Decreases complaints from consumers.
- c. Provides more consumer protections.

4. Local Exchange Carriers (LEC's)

- a. Takes the burden of handling consumer disputes off of their hands.
- b. Reduces complaints
- c. Reduces handling and accounting for credits
- d. Allows these types of services to be on unregulated portion of phone bill.
- e. Allows LEC's to discern these calls from standard collect calls.
- f. Provides regulation and guidelines for a method that without regulation has been causing problems.

5. Inter Exchange Carriers

- a. Takes the burden of handling consumer disputes off of their hands.
- b. Reduces complaints
- c. Reduces handling and accounting for credits
- d. Allows these types of services to be on unregulated portion of phone bill.
- e. Allows them to focus on what they do best - transportation services.

6. Billing Entities

- a. Provides a new line of business services.
- b. Lowers consumer complaint and customer service calls

PROPOSED CHANGES TO FCC PROPOSED RULES
AND DIRECT RESPONSES TO REQUESTS FOR COMMENTS

1. We propose that the FCC change the word "and" in Definition of Pay-Per-Call Services, 64.1501 (2) to the word "or".
2. We suggest that the FCC add the word and to "and" to the end of 64.1501 (3).
3. Additionally we suggest the addition of a definition 64.1501 (4), defining Reverse Charge Information Services. A suggested definition is as follows:

